

National Congress of American Indians (NCAI)
Testimony to the Senate Committee on Indian Affairs
Regarding S. 2017, Indian Financing Act Amendments of 2002

Presented by
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Chairman Inouye, Vice-Chairman Campbell, and other members of the committee, I would like to thank you for your invitation to present testimony on this very important piece of legislation, The Indian Financing Act Amendments of 2002. I would also like to thank the committee and their staff for the hard work they do in the interest of the tribes and the Indian people of this nation. We appreciate the particular attention that the Committee has given to the need for sustainable economic development in Indian Country. S. 2017 represents an important element in this effort.

As you well know, access to capital in Indian Country is extremely limited, and this shortage of capital represents one of the primary barriers to comprehensive and lasting economic development in our communities. But despite these challenges, a growing number of Indian-run and/or tribally operated businesses in the United States have taken hold in recent years. Most of these Indian entrepreneurs and tribes must seek loans for the development of their businesses, as they do not have the financial means to finance a business themselves.

But despite an increasing demand for loans, the lending community in Indian Country is not vibrant. Sources of capital for development remain extremely limited as lenders – already tentative in their approach to Indian Country due to jurisdictional complexities and, in many cases, a simple fear of the unknown -- shy away from sinking large amounts of money into projects that will take a number of years for repayment. Such long-term loans tie up capital for lenders, limiting their ability to make loans to other applicants. Large loans for complex proposals – however important they may be to the enhancement of infrastructure and meaningful economic opportunity in Indian Country -- are extremely difficult to procure.

I commend the Committee and its leadership for recognizing this problem and introducing legislation designed to draw lenders into the economies of Indian Country. This legislation offers an excellent opportunity to boost tribes' and their members' ability to realize self-sufficiency by addressing the problems of liquidity in the current market of guaranteed loans to Indian borrowers.

As you have found, the vast majority of lenders have not readily accepted the existing loan guarantees made available through the Secretary of Interior, likely because lenders are committed to having their capital tied up until repayment begins. Outside of Indian Country, loan markets operate differently—and arguably more productively. Agencies like Freddie Mac and

Fannie Mae—as secondary lenders—expedite the capital-refill process by purchasing the loans from the primary lenders. This secondary market does not affect the borrower, and allows a quick turnaround for the primary lender. In essence, the secondary lender fronts the value of the loan, and gives the primary lender more funds for outlay in other loans.

We believe that the creation of a similar secondary market for Indian Country lending is a promising means to increase opportunities for Indian businesses to acquire capital, thereby strengthening the overall economic fabric of Indian communities. The key foundation of a vibrant economy is small business, particularly in the small, rural communities that are generally representative of Indian Country: By making the loans that are currently guaranteed by the Department of Interior available for transfer, this legislation stands to greatly increase the flow of funds into new business in Indian Communities, and jumpstart increasing economic self-sufficiency in Indian Country.

Secondary markets have proven to be an extremely successful means of stimulating lending in the contexts where they currently operate. For the last 17 years, the Small Business Administration has operated a secondary loan market for its loans, and the results have been quite positive. The program provides lenders who might otherwise have been unable to participate in the loan market a simple process to follow for the transfer of loans. Increased numbers of lenders in the market have in turn resulted in an increase in the amount of money available to those businesses seeking loans.

Using the SBA program as a model, this legislation would open up Department of Interior guaranteed loans to the same processes. We know that the market can work to benefit Indian Country when the barriers that plague our economies are removed, and this process, under the supervision and administration of a fiscal transfer agent, is a relatively simple and straightforward way to address one of the barriers we face. Additionally, the program operates at a very low cost to the government, with fees for the transfer paid by the lenders who execute the transfer. Best of all, this program has only positive effects on the individuals seeking the loan: they have no need to worry about the transfer process, and benefit by the availability of more capital.

The legislation as currently drafted contains provisions for the Secretary of Interior to promulgate regulations necessary to set up the secondary loan market, to contract with a fiscal transfer agent to carry out the registration and paying agent functions, and to issue acknowledgements of loan transfers. In implementing this requirement, we urge the Secretary to work very closely with tribal government representatives to develop final regulations to set up the market. We also urge the Secretary to contract with a fiscal agent familiar with transactions in Indian Country. We are always available to work with this Committee and the Secretary to advise this process and contribute what we can to our mutual goal of helping Indian communities and individuals to thrive.

The National Congress of American Indians supports S. 2017 as an important means to inject capital into the economies of our Tribes, thereby strengthening Indian economies and Indian communities. By approving this bill, the Senators on this Committee will make another important step on the path to meaningful economic development for Indian Country, with little impact on either government spending or bureaucratic process.

Thank you for this opportunity to present testimony on behalf of NCAI, and I welcome any questions you may have.